

ASSEMBLY BILL

No. 1440

Introduced by Assembly Member Migden
(Coauthor: Assembly Member McClintock)
(Coauthors: Senators Burton, Haynes, Polanco, and
Vasconcellos)

February 26, 1999

An act to add Sections 2602 and 2603 to the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1440, as introduced, Migden. Media access to prisoners.

Existing law provides that a person sentenced to imprisonment in the state prison has the right to correspond confidentially with any member of the State Bar or holder of public office provided that the prison authorities may open and inspect incoming mail to search for contraband.

The bill would require the Department of Corrections, upon reasonable notice, to permit representatives of the news media to interview prisoners in person or randomly, as specified, and would prohibit the interview of a prisoner or parolee against his or her will. The bill would require the department to permit the news media to receive confidential correspondence from a prisoner, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in
2 enacting this act to invalidate changes in Section 3261.5
3 of Title 14 of the California Code of Regulations for which
4 a certificate of compliance was filed on April 14, 1997.

5 SEC. 2. Section 2602 is added to the Penal Code, to
6 read:

7 2602. (a) The Legislature finds and declares all of the
8 following:

9 (1) Free exchange of information from behind prison
10 walls benefits the public and fosters a safe and efficient
11 prison system.

12 (2) The Department of Corrections has historically
13 permitted media access to state prisoners without
14 endangering the safety of the prisons or the public.

15 (3) Members of the news media should be permitted
16 to interview state prisoners unless that access would pose
17 an immediate and direct threat to the security of the
18 institution or the safety of members of the public.

19 (4) There is no legitimate reason for a blanket ban on
20 media interviews with specified prisoners.

21 (b) The Department of Corrections, upon reasonable
22 notice, shall permit representatives of the news media to
23 interview prisoners in person, including prearranged
24 interviews with specified prisoners. A personal interview
25 of a particular prisoner is prohibited if the department
26 determines that the interview would pose an immediate
27 and direct threat to the security of the institution or the
28 physical safety of a member of the public. The
29 department may establish reasonable time, place, and
30 manner restrictions for prison interviews, including
31 limitations on the number of interviews per prisoner, and
32 requiring arrangements for pool interviews if requests to
33 interview any one prisoner are excessive, in order to
34 ensure the security of the institution, the physical safety
35 of the public, and the efficient administration of news
36 media interviews.

37 (1) The department shall permit random interviews
38 of individuals encountered by a representative of the

1 news media while covering a facility tour, activity, or
2 event.

3 (2) During any interview with a prisoner, a
4 representative of the news media may use materials
5 necessary to conduct the interview, including, but not
6 limited to, pens, pencils, papers, and audio and video
7 recording devices.

8 (3) The department shall permit the news media to
9 receive confidential correspondence from a prisoner
10 unless to do so would pose an immediate and direct threat
11 to the security of the institution or the safety of the public.

12 (4) No prisoner or parolee shall be interviewed against
13 his or her will.

14 SEC. 3. Section 2603 is added to the Penal Code, to
15 read:

16 2603. For purposes of this article, “representative of
17 the news media” means a journalist who works for, or is
18 under contract to, a newspaper, magazine, wire service,
19 or radio or television program, or who, through press
20 passes issued by a governmental or police agency or
21 through similar convincing means, can demonstrate that
22 he or she is a bona fide journalist engaged in the gathering
23 of information for distribution to the public.

